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Educational Note

Applicability of Rules, Standards, and other Guidance to CIA Members

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Applicability of Rules, Standards, and Other Guidance to CIA Members

Task Force on IAA Insurance Standards

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Educational Notes do not constitute standards of practice. They are intended to assist actuaries in applying standards of practice in respect of specific matters. Responsibility for the manner of application of standards in specific circumstances remains that of the practitioner.

Memorandum

To: All Fellows, Affiliates, Associates and Correspondents of the Canadian Institute of Actuaries

From: Leslie Thomson, Chairperson
Task Force on IAA Insurance Standards

Mark Campbell, Chairperson
Practice Standards Council

Date: November 30, 2005

Subject: **Applicability of Rules, Standards, and other Guidance to CIA Members**

The International Accounting Standards Board (IASB) has promulgated International Financial Reporting Standards (IFRS) that have been adopted by a number of countries around the world. The International Actuarial Association (IAA) has recently developed standards of practice to provide guidance to actuaries when providing professional services related to financial reporting in accordance with IFRS.

This has raised the general question of applicability of IAA standards of practice (whether IFRS-related or not) to CIA members. In researching this question, it became apparent that the issue of applicability of rules, standards of practice and other guidance in international work generally was unclear to many actuaries. This communication is intended to assist CIA members in applying professional standards of conduct, practice and qualification when practicing internationally, by making them aware of jurisdictional matters that arise in international work. Specifically, it is intended to describe the current CIA framework that determines the applicability of rules/codes of professional conduct, standards of practice and other guidance to the CIA member's work, and outlines the special considerations relevant to IAA standards of practice.

In accordance with the Institute's policy for Due Process, this educational note has been approved by the Task Force on IAA Insurance Standards, and has received final approval for distribution by the Practice Standards Council on November 30, 2005.

Educational notes are covered under Section 1220 of the SOP. Section 1220 prescribes that *"The actuary should be familiar with relevant educational notes and other designated educational material."* It further explains that a *"practice which the notes describe for a situation is not necessarily the only accepted practice for that situation and is not necessarily accepted actuarial practice for a different situation."* As well,

“educational notes are intended to illustrate the application (but not necessarily the only application) of the standards, so there should be no conflict between them.”

Please send comments to Lesley Thomson at Lesley.thomson@sunlife.com.

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INTRODUCTION

This educational note describes the current CIA framework that determines the applicability of rules/codes of professional conduct, standards of practice and other guidance to the CIA member's work.

In addition, special considerations relevant to standards of practice of the International Actuarial Association (IAA) are discussed.

In preparing the contents of this educational note, the authors reviewed the (draft) Discussion Paper of the American Academy of Actuaries (AAA) on the Application of Professional Standards in International Practice. We believe that many CIA members, including those who are not members of the AAA, will find that (draft) Discussion Paper to be helpful; on the whole, the advice provided is also relevant to Canadian actuaries.

RULES AND CODES OF PROFESSIONAL CONDUCT

All CIA members (Fellows, Associates and Affiliates) are expected always to comply with the CIA's Rules of Professional Conduct (CIA Rules). This is commonly the case with professional standards of conduct. Thus, the CIA Rules apply to all CIA members at all times, regardless of the nature or the jurisdiction of their work or practice. This is stated in section 21 of the CIA Bylaws.

Furthermore, CIA members could be subject to additional rules/codes of professional conduct as follows:

- As indicated in the preamble to the CIA Rules, CIA members rendering professional services in jurisdictions outside Canada are subject to the rules or ethical code of a "recognized actuarial organization" (RAO) in that jurisdiction. So, for example, a CIA member doing work in the US is required to follow the American Academy of Actuaries (AAA) Code of Professional Conduct in addition to the CIA Rules. RAO is defined as any full member of the IAA (or its standards-setting delegate), which currently covers about 45 countries around the world. Each IAA member would have a code of professional conduct similar to the CIA Rules.
- CIA members rendering professional services in jurisdictions outside Canada are required by section 21 of the Bylaws to comply with the accepted actuarial principles and practices of that jurisdiction. Such accepted actuarial principles and practices might include a code of professional conduct (and certainly would for any full IAA member).
- CIA members who are also members of other professional actuarial organizations may be required (by those organizations) to follow the rules/code of those professional organizations in whatever work they do.

Thus, CIA members – even those who practice only in Canada – may at any given time be subject to more than one set of rules/codes of professional conduct and it is possible for these to conflict. In the case of apparent conflict, the Committee on the Rules of Professional Conduct may be able to provide confidential advice in resolving it.

ACTUARIAL STANDARDS OF PRACTICE

Unlike rules/codes of professional conduct, the CIA requires its members to follow only *one* set of actuarial standards of practice for any particular piece of work. This is important because standards of practice often conflict across different jurisdictions.¹

The set of standards of practice to be followed is determined by the jurisdiction of the work. If the work is in Canada, one follows Canadian standards of practice (Canadian SOP); if the work is in another jurisdiction, one follows the standards of practice of that jurisdiction. The applicable references are:

- Section 1230 of the Canadian SOP limits the scope of the Canadian SOP to work *in Canada*.
- Bylaw 21.02 states that CIA members practising in a foreign jurisdiction shall comply with the “accepted actuarial principles and practices” in that jurisdiction.
- CIA Rule 3 states that professional services must meet *applicable* standards of practice. Annotation 3-1 clarifies that CIA members rendering professional services in jurisdictions outside Canada should follow the standards of practice promulgated by a RAO in that jurisdiction.

If the CIA member is working in a jurisdiction where there is little or no formal actuarial guidance available, section 1230.06 of the Canadian SOP indicates that the Canadian SOP might be useful, though the actuary would take account of differences in laws and customs. In other words, it would be appropriate to deviate from Canadian SOP if to do so is consistent with the accepted actuarial principles and practices in the jurisdiction.

Though all CIA members are automatically individual members of the IAA, the IAA has no disciplinary authority over its members, and cannot compel its members to follow IAA standards of practice. The IAA could eventually require the CIA to compel CIA members to follow IAA standards (as a condition of membership in the IAA), but so far has not indicated any intention to do so.

DETERMINING THE JURISDICTION OF THE WORK

In order to determine the standards of practice applicable to a particular piece of work, an important step will therefore be to determine the jurisdiction of the work.

Bylaw 20.14 states that the jurisdiction of the work is determined by establishing the jurisdiction of the legal or regulatory requirements pursuant to which the work is performed, or by establishing the jurisdiction in which the work is intended for use.

¹ Though unlikely, in theory it is possible for a CIA member to be bound by conflicting sets of actuarial standards of practice in a situation where the CIA member also belongs to another professional actuarial organization which imposes its own standards of practice on its members even for work outside their own jurisdiction. If this were to happen (and the applicable sets of standards of practice were in conflict), the CIA member might turn to section 1320 of the Canadian SOP (and/or an analogous section of a foreign actuarial organization’s standards) to help decide whether or not the engagement could be accepted, and if so, which standards of practice would be followed. Section 1320 gives guidance in situations where the actuary is asked to perform work in a manner that conflicts with accepted actuarial practice in Canada.

Section 1230 of the Canadian SOP provides some helpful guidance in determining the jurisdiction of the work.

Examples of work that is pursuant to legal or regulatory requirements include:

- Financial reporting work to be filed with the regulator of a country is work in that country (even if the work relates to a subsidiary in a different country).
- Results prepared for inclusion in the income tax return of a country is work in that country (even if the results relate to a subsidiary in a different country).
- Work related to litigation under a certain country's laws is work in that country.

If the work is not pursuant to any legal or regulatory requirements, then the jurisdiction of the work is determined by where the work is intended for use. For example, if the Canadian chief executive of a Canadian company asks the actuary to value the policy liabilities in accordance with US GAAP methods solely for internal purposes (i.e., not for filing with the US authorities), it would be considered work in Canada and the actuary would follow Canadian accepted actuarial practice and be bound by Canadian SOP. If the actuary was doing the same work but for the purpose of reporting in the US, it would be considered work in the US and the actuary would follow US accepted actuarial practice and be bound by US actuarial standards of practice.

While this may sound confusing, in practice accepted actuarial practice for preparing US GAAP liabilities would be largely the same regardless of whether it is work in Canada or work in the US. In either case, the actuary would need to be sufficiently familiar with the US GAAP financial reporting standards as well as any relevant US actuarial standards of practice in order to be able to perform the required calculations.

In addition, the general Canadian standards are relevant to all types of work and would be binding in the situation where the work was in Canada. Similarly, there may be relevant general US standards of practice that would be binding in the situation where the work was in the US.

Therefore, though it is unlikely that the result of the actuary's calculations would be any different whether the work was done in Canada or the US, there could be some differences in the manner in which the work is performed or in the final work product. For example, the general Canadian standards include guidance on reporting of the work product that might be different from the corresponding US standards. It is the actuary's responsibility to be aware of such differences and to know which standards are binding for particular work.

There are many situations where the jurisdiction of the work is unclear, for example in deals involving multinational sellers and multinational buyers. Section 1230.05 of the Canadian SOP provides guidance for situations where the jurisdiction of the work is unclear. The actuary would agree with the user which standards are to be followed or report the implications of any differences.

If section 1230 does not provide sufficient guidance, the actuary could also seek the input of the Committee on the Application of Rules and Standards (CARS) to help determine the jurisdiction of the work and the consequent applicable standards of practice.

EDUCATIONAL MATERIAL (NON-BINDING GUIDANCE)

Educational material and other non-binding guidance takes many forms and comes from many sources around the world. Actuarial research and literature is widespread and diverse, covering many topics, and by its nature will not always be consistent across sources. Actuarial opinions can and do vary widely, as do circumstances, across countries.

Therefore, actuaries cannot reasonably be expected to comply with all available educational material that applies to a piece of work.

Section 1210 of the Canadian SOP indicates that educational notes, as well as “Canadian and international actuarial literature” may provide useful guidance to “accepted actuarial practice”, but do not require the actuary to comply with all such material. In this context, educational notes refer to educational notes issued by the CIA.

Section 1220 requires the actuary to be “familiar with relevant educational notes and other designated educational material.” A key word here is “relevant” – actuaries are expected to be familiar with educational material that is specifically relevant to their work (e.g., an educational note issued to expound on an applicable section of Canadian SOP), but are not expected to be familiar with all educational material, since that would simply not be practical.

The Canadian SOP only apply to work in Canada. For work in a foreign jurisdiction, the actuary would be bound by the Bylaw 2102 requirement to comply with the “accepted actuarial principles and practices” in that jurisdiction, which themselves might include relevant educational material published in the jurisdiction.

SPECIAL CONSIDERATIONS FOR “INTERNATIONAL” WORK

Applicable guidance

Canada has not yet adopted IFRS as Canadian GAAP. Therefore, the IFRS and corresponding IAA standards of practice will not apply directly to the work of most actuaries in Canada for at least the next few years. However, there are CIA members working in countries that have adopted IFRS, and CIA members working for Canadian subsidiaries and branches of companies domiciled in countries that have adopted IFRS.

For CIA members in such situations, professional services concerning IFRS financial reporting in a foreign country would be considered work in that country, and therefore subject to the accepted actuarial principles and practices of that country. This would include the IFRS adopted by the country, as well as any corresponding standards of practice promulgated by the local actuarial organization which, for IFRS work, might include the IAA standards or some variation thereof.

The IFRS that pertain to contracts written by insurers (especially, IFRS 4, IAS 18, and IAS 39) include material that would often be directly related to an actuary’s work. For example, many of the principles of valuation for policy liabilities appear directly in the IFRS rather than in actuarial standards of practice. The IAA standards of practice provide an overview of many of the relevant aspects of these IFRS, but do not provide complete guidance. Thus, in order to perform professional services concerning IFRS financial

reporting of an insurer, the actuary must be familiar with the applicable IFRS in addition to any applicable actuarial standards of practice. The same would be true for any other professional services relating to IFRS.

As of the date of this educational note, all the IAA standards of practice have been issued as “Class 4” Practice Guidelines, which means that they are educational and non-binding in nature. However, individual actuarial organizations have the option of giving stronger force to these Practice Guidelines, and they could become binding in some jurisdictions. It is the actuary’s responsibility to be familiar with and to comply with the “accepted actuarial principles and practices” in the jurisdiction of the work.

For any IFRS-related work that is work in Canada, the Canadian SOP would apply. Here, the IAA Practice Guidelines would be given consideration as useful guidance applicable to the work per section 1210 of the Canadian SOP.

Multiple Jurisdictions

The development of IFRS has raised the possibility of a piece of work being produced for multiple jurisdictions, or perhaps for the “International” jurisdiction, with the hope that a single set of accounting standards and a single set of actuarial standards of practice would apply to the work.

However, at this time, it appears that both Europe and Australia will adopt modifications of the IFRS. Similarly, the professional actuarial organizations in different countries could adopt different versions of the IAA standards of practice. This means we could have different financial reporting rules and different actuarial standards of practice across jurisdictions that claim to follow “International GAAP”.

So, if an actuary is asked to produce a report for use in multiple jurisdictions (all reporting under International GAAP), the actuary’s report submitted in each jurisdiction would be considered a separate report governed by the accounting standards and actuarial standards of practice in that jurisdiction. It is hoped that the standards in countries that adopt IFRS will eventually be very similar, so that the burden on the actuary to understand the standards applicable to his or her work will be lighter than it is today.

Alternatively, the actuary might be asked to produce a single report following a particular jurisdiction’s version of International GAAP. This would be acceptable provided the user(s) of the report understands and accepts what is being provided. The actuary would be guided by Rule 6 (Control of Work Product) and, for example, would indicate clearly in the report which accounting and actuarial standards had been followed.

Oversight of Professional Conduct

Whenever a CIA member’s work or conduct is called into question, the CIA investigates the matter according to its disciplinary process as described in the document entitled “The Canadian Institute of Actuaries Disciplinary Process”, which is available on the CIA website.

When CIA members work in jurisdictions outside Canada, and therefore apply accepted actuarial practice in that jurisdiction to their work, an issue arises as to whether the CIA has the required expertise to judge whether the actuary’s work falls outside accepted actuarial practice in the foreign jurisdiction.

This issue is covered in sections 20.13-20.17 of the Bylaws (International Reciprocal Arrangements). Currently, the CIA has such an arrangement with the US-based actuarial organizations called the Cross Border Discipline Agreement, which is available on the CIA website. In short, this agreement stipulates that questions about a CIA member's work performed in the US will be investigated by the US actuarial organization(s) and that the determination of whether or not the work complies with accepted actuarial practice in the US will be made by the US actuarial organization(s). The CIA agrees to accept the ruling of the US actuarial organization, but reserves the right to impose whatever penalty it sees fit when a breach of the rules is involved. The converse also applies to US actuaries performing work in Canada.

The main purpose of the Cross Border Discipline Agreement is to minimize the number of cases where an actuary is investigated by two separate organizations for the same alleged transgression. In the example discussed earlier where the calculation of US GAAP liabilities is work in Canada, any questions about the CIA member's work would be investigated by the CIA's Committee on Professional Conduct.

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